



THE CITY OF NEW YORK
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January 28, 2014

BY ECF

Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Shameek Jackson v. The City of New York, et al., 13 CV 765 (BMC)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendants. In that capacity, I write in response to the Court's Order to Show Cause why a Judgment for Attorneys' Fees and Costs should not be entered. As an initial matter, I was advised by the Office of the Comptroller that a check for attorneys' fees and costs in the manner agreed upon was printed on January 22, 2014, and thereafter mailed to plaintiff's counsel. In my experience, it normally takes several days from the time the check is printed by the Office of the Comptroller for it to arrive at its respective destination. As a result, plaintiff's counsel should receive his check for attorneys' fees and costs shortly in the event he has not already.

Additionally, defendants respectfully submit that any delay in payment was not as a result of any bad faith or inexcusable delay. In fact, the settlement paperwork pertaining to the agreed upon attorneys' fees and costs was processed expeditiously and sent over to the Office of the Comptroller on October 2, 2013. Shortly thereafter, a check was issued to plaintiff's counsel. However, upon information and belief, the check did not reach plaintiff's counsel because plaintiff's counsel changed his address – a change that had not yet been reflected by the Office of the Comptroller. Defense counsel first became aware of any potential issues with payment on November 23, 2013, when I received an email from plaintiff's counsel within which he explained, "I had an issue getting the check on another matter because of my change of address, so I thought I would get ahead of the problem." After receiving this email, I made sure the Office of the Comptroller had the current address of plaintiff's counsel so that a new check could

be issued. That process ended up being slightly delayed due to the fact that my representative at the Office of the Comptroller retired without my being made aware and thus, my request, as well as attempts made by plaintiff to follow up himself, were unsuccessful until I was made aware of this individual's retirement by email on December 12, 2013.

Accordingly, I apologize to the Court and plaintiff's counsel for any delay in payment of attorneys' fees and costs and submit that this issue should be rendered moot shortly in the event it has not already been.

Thank you for your consideration herein.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'B. Francolla', is written over the typed name.

Brian Francolla
Senior Counsel
Special Federal Litigation Division

cc: Gregory Mouton (by ECF)
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